

APPEAL NO. 031234
FILED JUNE 26, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 14, 2003. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first quarter.

The claimant appealed, citing medical evidence which he contends constitutes a specific explanation how his injury causes a total inability to work and no other credible record showed that he was able to return to work. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated to the impairment rating, that impairment income benefits were not commuted, and that the qualifying period for the first quarter was from August 29 through November 27, 2002. The hearing officer's determination that the claimant's unemployment was a direct result of the impairment from the compensable injury has not been appealed. The claimant seeks to satisfy the good faith effort to obtain employment commensurate with his ability to work requirement of Section 408.142(a)(4) and Rule 130.102(b)(2) based on a total inability to work in any capacity.

Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. The hearing officer found that the claimant had not provided a narrative report from a doctor that specifically explained how the injury caused him to have a total inability to work. The claimant's appeal cites several reports from the claimant's treating doctor as providing the specific narrative. The hearing officer, in his Statement of the Evidence, did a thorough review of all the medical evidence. The hearing officer noted that the treating doctor "wrote merely conclusory statements" which did not constitute a narrative report that specifically explained how the injury caused a total inability to work. Our review of the record indicates that the doctor documents continued pain, that the claimant was taking pain medication which could cause dizziness, and concludes that the claimant is not "capable of gainful employment." The treating doctor also references the report of a Dr. S. Our review of that report, rendered during the qualifying period, concludes that it was Dr. S's "opinion that [the claimant] is noncompliant and, therefore, cannot be relied upon to present a true picture of his orthopedic disability."

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We hold that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge